

CHRISTIAN MORRIS TRIAL ATTORNEYS

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Attorneys for Plaintiff, Ashley O'Neil

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

ASHLEY O'NEIL, an individual;
Plaintiff,

vs.

LAS VEGAS METROPOLITAN POLICE
DEPARTMENT, a Political Subdivision of
the State of Nevada; COUNTY OF CLARK,
CLARK COUNTY DETENTION CENTER,
a Political subdivision of the State of Nevada;
SHERIFF JOE LOMBARDO, individually
and in his capacity as sheriff of the Las Vegas
Metropolitan Police Department;
WELLPATH, LLC, a foreign corporation,
DOE NURSE COCO, individually; DOE
OFFICERS 1 through 10, individually, DOE
NURSES 1 through 10, individually; DOES
1 through 10; ROE CORPORATIONS 11
through 20; and ABC LIMITED LIABILITY
COMPANIES 21 through 30, inclusive,

Defendants.

CASE NO.: 2:22-cv-00474-ART-BNW

MOTION TO WITHDRAW AS COUNSEL

CHRISTIAN MORRIS TRIAL ATTORNEYS


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COMES NOW, Christian M. Morris, Esq., Wesley H. LeMay, Jr., Esq., and Victoria R. Allen, Esq., of the law firm CHRISTIAN MORRIS TRIAL ATTORNEYS, as attorneys of record for Plaintiff, ASHLEY O'NEIL ("Plaintiff") hereby move this Honorable Court for an Order allowing the law firm of CHRISTIAN MORRIS TRIAL ATTORNEYS to withdraw as attorney of record.

This Motion is based upon the following Points and Authorities, the Declaration of Counsel attached hereto, and upon any arguments of counsel to be permitted at the time of the hearing of this Motion.

DATED this 3rd day of April, 2023.

CHRISTIAN MORRIS TRIAL ATTORNEYS


CHRISTIAN M. MORRIS, ESQ.

Nevada Bar No. 11218

WESLEY H. LeMAY, JR., ESQ.

Nevada Bar 14907

VICTORIA R. ALLEN, ESQ.

Nevada Bar No. 15005

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Attorneys for Plaintiff

DECLARATION OF WESLEY H. LeMAY, JR., ESQ.
IN SUPPORT OF MOTION TO WITHDRAW AS COUNSEL

I, WESLEY H. LeMAY, JR., ESQ., being first duly sworn, deposes and says:

1. I am an attorney duly licensed to practice before the courts in the State of Nevada and am an associate practicing at CHRISTIAN MORRIS TRIAL ATTORNEYS law firm in Henderson, Nevada. The following facts are within my personal knowledge, unless stated otherwise, and if called as a witness, I am competent to testify thereto.

2. CHRISTIAN MORRIS TRIAL ATTORNEYS is counsel of record for Ashley O'Neil ("Plaintiff") in the above-referenced matter.

3. I make this declaration in support of the instant Motion to Withdraw as Counsel.

4. Consistent with RPC 1.16(b), CHRISTIAN MORRIS TRIAL ATTORNEYS and I can no longer adequately represent Plaintiff in this matter due to a breakdown in communication on fundamental issues of the case.

5. The last known contact information for Plaintiff is as follows:


Ashley O'Neil c/o Amanda Kittell:

688 Inglenook Dr, Las Vegas NV, 89123

amandakittell@yahoo.com, 702-575-1470

6. This Motion is not made for the purpose of delay, and I am forwarding, by certified mail, return receipt requested a copy of this Motion to Withdraw as Counsel to Plaintiff's last known address, as stated above.

7. I declare under penalty of perjury under the laws of the State of Nevada that the foregoing is true and correct.



WESLEY H. LeMAY, JR., ESQ.

MEMORANDUM OF POINTS AND AUTHORITIES

I.

ARGUMENT

Nevada Supreme Court Rule 46 allow for the withdrawal or change of attorney upon written motion and approval by the Court. Rule SCR 46, in pertinent part, provides:

Rule 46. Withdrawal or change of attorney. The attorney in an action or special proceeding may be changed at any time before judgment or final determination as follows:

1. Upon consent of the attorney, approved by the client.
2. Upon the order of the court or judge thereof on the application of the attorney or the client.

SCR 46 (1-2).

Further, Nevada Rule of Professional Conduct 1.16, in pertinent part, sets forth several bases for an attorney to withdraw:

Rule 1.16. Declining or Terminating Representation.

- (a) Except as stated in paragraph (c), a lawyer shall not represent a client or, where representation has commenced, shall withdraw from the representation of a client if:
 - (1) The representation will result in violation of the Rules of Professional Conduct or other law;
 - (2) The lawyer's physical or mental condition materially impairs the lawyer's ability to represent the client; or
 - (3) The lawyer is discharged.
- (b) Except as stated in paragraph (c), a lawyer may withdraw from representing a client if:
 - (1) Withdrawal can be accomplished without material adverse effect on the interests of the client;
 - (2) The client persists in a course of action involving the lawyer's services that the lawyer reasonably believes is criminal or fraudulent;
 - (3) The client has used the lawyer's services to perpetrate a crime or fraud;
 - (4) A client insists upon taking action that the lawyer considers repugnant or with which the lawyer has fundamental disagreement;
 - (5) The client fails substantially to fulfill an obligation to the lawyer regarding the lawyer's services and has been given reasonable warning that the lawyer will withdraw unless the obligation is fulfilled;
 - (6) The representation will result in an unreasonable financial burden on the lawyer or has been rendered unreasonably difficult by the client; or
 - (7) Other good cause for withdrawal exists.

Moreover, Local Rule 11-6 authorizes the procedure by which counsel may seek leave of the court to withdraw as counsel, and provides, in relevant part:

(b) If an attorney seeks to withdraw after appearing in a case, the attorney must file a motion or stipulation and serve it on the affected client and opposing counsel. The affected client may, but is not required to, file a response to the attorney's motion within 14 days of the filing of the motion, unless the court orders otherwise. . . .

(d) Discharge, withdrawal, or substitution of an attorney will not alone be reason for delay of pretrial proceedings, discovery, the trial, or any hearing in the case.

(e) Except for good cause shown, no withdrawal or substitution will be approved if it will result in delay of discovery, the trial, or any hearing in the case. Where delay would result, the papers seeking leave of the court for the withdrawal or substitution must request specific relief from the scheduled discovery, trial, or hearing. If a trial setting has been made, an additional copy of the moving papers must be provided to the clerk for immediate delivery to the assigned district judge, bankruptcy judge, or magistrate judge.

The undersigned was retained to represent the interests of Plaintiff to pursue this action. However, while in the course of advocating Plaintiff's claim, Counsel has determined they are no longer able to adequately represent the interests of Plaintiff. Accordingly, Plaintiff has been advised that Counsel can no longer represent her and has assisted Plaintiff in obtaining an attorney to represent the interests of Plaintiff. Additionally, discovery in this case is currently stayed pending the Court's decision on Defendants' individual Motions to Dismiss, so there will be no delay in discovery.

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II.

CONCLUSION

Based on the foregoing, it is respectfully requested that the firm of CHRISTIAN MORRIS TRIAL ATTORNEYS be allowed to withdraw as counsel of record for Plaintiff Ashley O'Neil.

DATED this 3rd day of April, 2023.

CHRISTIAN MORRIS TRIAL ATTORNEYS


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Nevada Bar No. 15005
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Attorneys for Plaintiff

ORDER

IT IS SO ORDERED

DATED: 5:03 pm, April 04, 2023


BRENDA WEKSLER
UNITED STATES MAGISTRATE JUDGE

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CERTIFICATE OF SERVICE

Pursuant to NEFCR 9, NRCP 5(b) and EDCR 8.02, I certify that on this 3rd day of April, 2023, I served the foregoing **MOTION TO WITHDRAW AS COUNSEL** to the following parties by electronically filing with the Clerk of the Court using the CM/ECF system, which will send notification of such filing to the CM/ECF participants registered to received such service and/or by placing a copy in the U.S. regular mail, postage pre-paid addressed as follows:

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Ashley O'Neil c/o Amanda Kittell:
688 Inglenook Dr,
Las Vegas NV, 89123
Plaintiff

/s/ Thalia V. Gomez

An employee of CHRISTIAN MORRIS
TRIAL ATTORNEYS